

AMENDED IN SENATE APRIL 18, 2007

SENATE BILL

No. 411

Introduced by ~~Senator Simitian~~ *Senators Simitian and Perata*

February 21, 2007

An act to amend Section 399.15 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 411, as amended, Simitian. Energy: renewable energy resources.

The Public Utilities Act imposes various duties and responsibilities on the California Public Utilities Commission (CPUC) with respect to the purchase of electricity and requires the CPUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller, as defined, of electricity, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires each retail seller to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010. Existing law prohibits the CPUC from requiring a retail seller with 20% of retail sales procured from eligible renewable energy resources in any year to increase its procurement of renewable energy resources in the following year.

The existing California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require

the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020.

~~This bill would prohibit the CPUC from requiring a retail seller with 20% of retail sales procured from eligible renewable energy resources in any year to increase its procurement of renewable energy resources in the following year, unless the CPUC determines that additional procurement of eligible renewable energy resources, of up to 33% of retail sales, would facilitate achievement of~~ *require a retail seller to increase its total procurement of eligible renewable resources so that at least 33% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020, in furtherance of achieving the greenhouse gas emissions limit adopted pursuant to the California Global Warming Solutions Act of 2006.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 399.15 of the Public Utilities Code is
- 2 amended to read:
- 3 399.15. (a) In order to fulfill unmet long-term resource needs,
- 4 the commission shall establish a renewables portfolio standard
- 5 requiring all electrical corporations to procure a minimum quantity
- 6 of electricity generated by eligible renewable energy resources as
- 7 a specified percentage of total kilowatthours sold to their retail
- 8 end-use customers each calendar year, if sufficient funds are made
- 9 available pursuant to Section 399.6 and Chapter 8.6 (commencing
- 10 with Section 25740) of Division 15 of the Public Resources Code,
- 11 to cover the above-market costs of eligible renewable energy
- 12 resources.
- 13 (b) The commission shall implement annual procurement targets
- 14 for each retail seller as follows:
- 15 (1) Each retail seller shall, pursuant to subdivision (a), increase
- 16 its total procurement of eligible renewable energy resources by at
- 17 least an additional 1 percent of retail sales per year so that 20
- 18 percent of its retail sales are procured from eligible renewable
- 19 energy resources no later than December 31, 2010. ~~A retail seller~~

1 ~~with 20 percent of retail sales procured from eligible renewable~~
2 ~~energy resources in any year shall not be required to increase its~~
3 ~~procurement of renewable energy resources in the following year,~~
4 ~~unless the commission determines that additional procurement of~~
5 ~~eligible renewable energy resources, of up to 33 percent of retail~~
6 ~~sales, would facilitate achievement of the greenhouse gas emissions~~
7 ~~limit adopted, and at least 33 percent of its retail sales are~~
8 ~~procured from eligible renewable energy resources no later than~~
9 ~~December 31, 2020, in furtherance of achieving the greenhouse~~
10 ~~gas emissions reductions required pursuant to Part 3 (commencing~~
11 ~~with Section 38550) of Division 25.5 of the Health and Safety~~
12 ~~Code.~~

13 (2) For purposes of setting annual procurement targets, the
14 commission shall establish an initial baseline for each retail seller
15 based on the actual percentage of retail sales procured from eligible
16 renewable energy resources in 2001, and to the extent applicable,
17 adjusted going forward pursuant to Section 399.12.

18 (3) Only for purposes of establishing these targets, the
19 commission shall include all electricity sold to retail customers by
20 the Department of Water Resources pursuant to Section 80100 of
21 the Water Code in the calculation of retail sales by an electrical
22 corporation.

23 (4) In the event that a retail seller fails to procure sufficient
24 eligible renewable energy resources in a given year to meet any
25 annual target established pursuant to this subdivision, the retail
26 seller shall procure additional eligible renewable energy resources
27 in subsequent years to compensate for the shortfall if sufficient
28 funds are made available pursuant to Section 399.6 and Chapter
29 8.6 (commencing with Section 25740) of Division 15 of the Public
30 Resources Code, to cover any above-market costs of eligible
31 renewable energy resources.

32 (5) If supplemental energy payments from the Energy
33 Commission, in combination with the market prices approved by
34 the commission, are insufficient to cover any above-market costs
35 of electricity procured from eligible renewable energy resources
36 through an electricity purchase agreement of at least 10 years'
37 duration, the commission shall allow a retail seller to limit its
38 annual procurement obligation to the quantity of eligible renewable
39 energy resources that can be procured with available supplemental
40 energy payments. A retail seller shall not be required to enter into

1 long-term contracts with operators of eligible renewable energy
2 resources that exceed the market prices established pursuant to
3 subdivision (c).

4 (c) The commission shall establish a methodology to determine
5 the market price of electricity for terms corresponding to the length
6 of contracts with eligible renewable energy resources, in
7 consideration of the following:

8 (1) The long-term market price of electricity for fixed price
9 contracts, determined pursuant to an electrical corporation's general
10 procurement activities as authorized by the commission.

11 (2) The long-term ownership, operating, and fixed-price fuel
12 costs associated with fixed-price electricity from new generating
13 facilities.

14 (3) The value of different products including baseload, peaking,
15 and as-available electricity.

16 (d) The Energy Commission shall provide supplemental energy
17 payments from funds in the New Renewable Resources Account
18 of the Renewable Resource Trust Fund to eligible renewable energy
19 resources pursuant to Chapter 8.6 (commencing with Section
20 25740) of Division 15 of the Public Resources Code, consistent
21 with this article, for any above-market costs. Indirect costs
22 associated with the purchase of eligible renewable energy resources
23 by an electrical corporation, including imbalance energy charges,
24 sale of excess energy, decreased generation from existing resources,
25 or transmission upgrades, shall not be eligible for supplemental
26 energy payments, but are recoverable in rates, as authorized by
27 the commission. The Energy Commission shall not award
28 supplemental energy payments to service load that is not subject
29 to the renewable energy public goods charge.

30 (e) The establishment of a renewables portfolio standard shall
31 not constitute implementation by the commission of the federal
32 Public Utility Regulatory Policies Act of 1978 (Public Law
33 95-617).

34 (f) The commission shall consult with the Energy Commission
35 in calculating market prices under subdivision (c) and establishing
36 other renewables portfolio standard policies.